IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.4.2007

CORAM;

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.NO.13504 OF 2006
and
W.P.M.P.No.15090 of 2006

C.Vasanthaveni ..Petitioner

vs

1.The Chairman and Managing Director
Tamil Nadu Housing Board
Nandanam
chennai

2.The Executive Engineer
Coimbatore Housing Unit
Tatabad
Coimbatore 641 012 ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issue of writ of Certiorarified Mandamus calling for the records of the 2nd respondent dated 17.5.2005 made in letter No.A3/17023/87 and quash the same and direct the 2nd respondent to calculate the interest for the difference sale consideration from the date of demand by the 2nd respondent i.e., on 17.5.2005.

for petitioner :Mr.P.Balamanickam
for respondents :Mr.R.Girirajan

ORDER

WEB COPY

The writ petition is filed for issue of a writ of Certiorarified Mandamus calling for the records of the 2nd respondent dated 17.5.2005 made in letter No.A3/17023/87 and quash the same and direct the 2nd respondent to calculate the interest for the difference sale consideration from the date of demand by the 2nd respondent i.e., on 17.5.2005.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

https://hcservices.ecourts.gov.in/hcservices/

3. This writ petition is filed challenging the order of the 2nd respondent dated 17.5.2005 under which the 2nd respondent has directed the petitioner to pay the balance amount in respect of allotment of residential plot to an extent of Rs.7,39,703/-.

4. The facts leading to this case are that originally the petitioner was allotted the residential plot on 8.1.1992 by the respondent Housing Board. Admittedly, the final cost in respect of the plot was arrived only on 14.11.2002. The tentative cost which was fixed at the time of allotment in respect of the plot was Rs.2,92,630/-, out of which it is admitted by the respondent that Rs.1,85,000/- has been paid by the petitioner and the remaining amount of Rs.1,07,000/- has not been paid so far. As far as the balance amount of tentative cost is concerned, the petitioner has to pay interest in terms of agreement. In respect of the interest for the subsequent period, as it is relied upon by the learned counsel for the petitioner in W.P.No.17190/2003 dated 21.4.2004 wherein this Court has held in similar circumstances the Housing Board has got the right to demand interest from the date of allotment till the expiry of three years after the date on which the land price was finally fixed.

5. The petitioner was allotted the plot on 8.1.1992. Admittedly, the final cost was fixed on 14.11.2002. Therefore, it is for the respondent to consider the claim of the petitioner with regard to interest based on the order dated 21.4.2004. This fact is not denied by the respondent housing board. Therefore, it is quite clear that from the date of fixing of the final cost namely 14.11.2002 the petitioner is liable to pay interest as per the terms of the contract till date.

6. Under these circumstances, after hearing the learned counsel for the both parties, I am of the considered view that the respondent should be permitted to give fresh calculation based on the direction given above to the petitioner so as to enable the petitioner to make payment. It is made clear that in respect of the arrears of payment by the petitioner, it is for the respondent to consider the same and give opportunity to pay the amount in equal instalments.

7. Consequently, the writ petition is disposed of with a direction to the petitioner to pay Rs.2,50,000/- to the 2nd respondent within a period of eight weeks from the date of receipt of the copy of this order. It is made clear that as stated above the respondent shall issue fresh calculation to the petitioner within a period of four weeks from the date of receipt of the copy of the order and the petitioner shall be permitted to pay the balance amount in equal instalments after the payment of Rs.2,50,000/-. The impugned order of the 2nd respondent dated 17.5.2005 is set aside and this Court directs the 2nd respondent to issue fresh calculation statement to the petitioner.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

8. The writ petition is disposed of accordingly. No costs. Consequently, W.P.M.P.No.15090/2006 is also disposed of.

sal

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Chairman and Managing Director
Tamil Nadu Housing Board
Nandanam
Chennai-35

2.The Executive Engineer
Coimbatore Housing Unit
Tatabad
Coimbatore 641 012

+1 cc to Mr.R.Girirajan, Advocate Sr.No.26717.

BK(CO)
dcp/27.4.07

W.P.NO.13504/2006
and
W.P.M.P.No.15090/2006

सत्यमेव जयते
WEB COPY

https://hcservices.ecourts.gov.in/hcservices/